

Amendment No. 1 to HB1892

Coleman
Signature of Sponsor

AMEND Senate Bill No. 1715*

House Bill No. 1892

By deleting all following the enacting clause and substituting instead:

SECTION 1. Tennessee Code Annotated, Section 17-4-101, is amended by deleting the section in its entirety and substituting instead the following:

(a) It is the declared purpose and intent of the general assembly by the passage of this chapter to assist the governor in finding and appointing the best qualified persons available for service on the appellate courts of Tennessee, and to assist the electorate of Tennessee to elect the best qualified persons to the courts; to insulate the judges of the courts from political influence and pressure; to improve the administration of justice; to enhance the prestige of and respect for the courts by eliminating the necessity of political activities by appellate justices and judges; and to make the courts "nonpolitical."

(b) The organizations authorized in this chapter to make recommendations for members are associations composed of lawyers who regularly practice in the trial and appellate courts and who, respectively, represent the prosecution and defense functions in criminal proceedings and the plaintiff and defense functions in civil proceedings, and who, therefore, from experience and observation are familiar with the best qualifications and characteristics of judges.

SECTION 2. Tennessee Code Annotated, Section 17-4-102, is amended by deleting the section in its entirety and substituting instead the following:

(a) There is established as a part of the judicial branch of the state a judicial nominating commission to be composed of seventeen (17) members as follows:

(1) Eight (8) members shall be appointed by the speaker of the senate:

(A) Two (2) of such members shall be appointed from each of the state's three (3) grand divisions, and the remaining two (2) members shall be appointed at-large; and

(B) At least six (6) of the members appointed shall be lawyers;

(2) Eight (8) members shall be appointed by the speaker of the house of representatives.

(A) Two (2) of such members shall be appointed from each of the state's three (3) grand divisions, and the remaining two (2) members shall be appointed at-large; and

(B) At least six (6) of the members appointed shall be lawyers;

and

(3) One (1) member shall be jointly appointed at-large by the speaker of the senate and the speaker of the house of representatives. Said at-large member shall not be from the same state grand division of the four (4) at-large members appointed individually by the speakers

(b) Each speaker in making the appointments to the judicial nominating commission shall do so with a conscious intention of selecting a body that reflects a diverse mixture with respect to race, including the dominant ethnic minority population, and gender.

(c) Effective July 1, 2009, the entire membership of the judicial selection commission is hereby vacated and shall be replaced by new appointments made pursuant to this act. To stagger the terms of the newly appointed commission members, four (4) of the senate speaker's appointments shall be made for initial terms of two (2) years each, four (4) of the house speaker's appointments shall be made for initial terms of two (2) years each, and the speakers' joint appointment shall be made for an initial term of two (2) years. The remaining eight (8) appointments shall be made for initial terms of four (4) years each. Thereafter, the terms for all appointments shall be prescribed by §§ 17-4-106 and 17-4-107.

(d) In making lawyer appointments to the commission, the speaker shall receive, but shall not be bound by, recommendations from any interested bar group, including but not limited to, the Tennessee Bar Association, the Tennessee Association for Justice, the Tennessee Defense Lawyers Association, the Tennessee Association of Criminal Defense Lawyers, the Tennessee District Attorney Generals Conference, the Tennessee District Public Defenders Conference, the Tennessee Lawyers Association for Women, and the Tennessee Alliance for Black Lawyers.

SECTION 3. Tennessee Code Annotated, Section 17-4-103, is amended by deleting the section in its entirety and substituting instead the following:

(a) Each member of the judicial nominating commission shall be a citizen of the United States, shall be at least thirty (30) years of age, and shall have been a citizen of this state for at least five (5) years immediately prior to appointment. Any member appointed from one (1) of the state's grand divisions shall have been a resident of that grand division for at least one (1) year immediately prior to appointment.

(b) Each lawyer member shall be a lawyer in good standing who is licensed to practice by the Tennessee supreme court.

SECTION 4. Tennessee Code Annotated, Section 17-4-104, is amended by deleting the section in its entirety and substituting instead the following:

(a) No member of the judicial nominating commission shall be a salaried office holder of the state of Tennessee or the United States, nor shall any member of the commission hold any office in any political party or political organization; provided, that members of the national guard and members of any armed forces reserve organization, any district attorney general or an employee of a district attorney general, or any district public defender or an employee of a district public defender shall not be considered as salaried office holders.

(b) Any member of the commission becoming a salaried office holder of the state of Tennessee or the United States or accepting any office in any political party or

political organization ipso facto vacates the member's office as a member of the commission.

(c) No member of the judicial nominating commission shall be a lobbyist registered in this state. Any member of the commission becoming a registered lobbyist in this state ipso facto vacates the member's office as a member of this commission.

SECTION 5. Tennessee Code Annotated, Section 17-4-105, is amended by deleting the section in its entirety and substituting instead the following:

(a) The term of office of each member of the judicial nominating commission shall begin on July 1, 2009.

(b)

(1) As soon as practicable after July 1, 2009, the commission shall meet in organizational session as convened by the chief justice of the supreme court.

(2) At the first organizational meeting, the chief justice shall preside as temporary chair, and a permanent chair shall be elected from the membership of the commission.

(3) If the chief justice is unable to convene the commission or serve as temporary chair, the chief justice may designate another member of the supreme court to so serve.

(c) The commission may elect such other officers as it deems necessary and proper, and may adopt and from time to time amend bylaws and rules of procedure for the conduct of its business and discharge of its duties.

(d) The commission may employ such secretarial and clerical assistance as it deems necessary

SECTION 6. Tennessee Code Annotated, Section 17-4-106, is amended by deleting the section in its entirety and substituting instead the following:

(a) Except as provided in § 17-4-102(c), the term of a commission member shall be four (4) years.

(b) A commission member shall be eligible for reappointment; however, no commission member shall serve more than two (2) terms, including any initial, partial or regular term.

SECTION 7. Tennessee Code Annotated, Section 17-4-107, is amended by deleting the section in its entirety and substituting instead the following:

(a) A vacancy on the judicial nominating commission shall be filled in the same manner as the original appointment for the remainder of the unexpired term.

(b) Any member of the judicial nominating commission, who misses four (4) meetings of the commission during the member's term of office, ipso facto vacates the member's office as a member of the commission.

SECTION 8. Tennessee Code Annotated, Section 17-4-108, is amended by deleting the section in its entirety and substituting instead the following:

(a) Members of the judicial nominating commission and judicial performance evaluation commission shall not receive any compensation for their services but shall be reimbursed for their official travel expenses pursuant to policies and guidelines promulgated by the supreme court.

(b) Subject to budgetary restrictions, the administrative office of the courts shall pay or reimburse the necessary expenses authorized or incurred by the judicial nominating commission and the judicial performance evaluation commission in the performance of the duties pursuant to policies and guidelines promulgated by the supreme court.

SECTION 9. Tennessee Code Annotated, Section 17-4-109, is amended by deleting the section in its entirety and substituting instead the following:

(a)

(1) If a vacancy occurs during the term of office of a judge of the court of appeals or court of criminal appeals, then the judicial nominating commission shall, at the earliest practicable date, hold a public meeting in the grand division from which such vacancy is to be filled. However, if an incumbent judge fails to

file a written declaration of candidacy required by § 17-4-114 or § 17-4-115, or if the commission is reliably informed that a vacancy is impending for another reason, then the public meeting may be held prior to actual occurrence of the vacancy.

(2) If a vacancy occurs during the term of office of a judge of the supreme court, then the judicial nominating commission shall, at the earliest practicable date, hold a public meeting in Nashville. However, if an incumbent judge fails to file a written declaration of candidacy as required by § 17-4-114 or § 17-4-115, or if the commission is reliably informed that a vacancy is impending for another reason, then the public meeting may be held prior to actual occurrence of the vacancy.

(b) Notice of the time, place and purpose of the meeting shall be given by newspapers, radio news, and television news and by such other means as the commission deems proper.

(c) Any member of the public, both lay and attorney, shall be entitled to attend the meeting and express orally or in writing such citizen's approval of or objections to any suggested nominee for the judicial vacancy. Any licensed attorney may appear and make a statement, oral or written, in support of such attorney's own nomination.

(d) After one (1) public hearing, the commission may hold such additional private interviews with the candidates as it deems necessary. The commission shall make independent investigation and inquiry to determine the qualifications of possible nominees for the judicial vacancy and shall endeavor to encourage qualified attorneys to accept nomination and agree to serve if appointed to the judicial vacancy. Once the private interviews with candidates have concluded, the commission shall conduct its deliberations in public. When selecting nominees in such public meeting, commission members shall vote anonymously by written ballots, however, such ballots shall be collected, announced and tallied at the meeting by the presiding officer. The Tennessee

bureau of investigation Level II security clearance as to nominees shall be performed exclusively at the direction of the governor, acting pursuant to § 17-4-112(a)(2).

(e) As soon as practicable and not later than sixty (60) days from receipt of written notice from the governor that a vacancy has occurred, the commission, by a majority vote, shall select three (3) persons whom the commission deems best qualified and available to fill the vacancy and certify the names of the three (3) persons to the governor as nominees for the judicial vacancy. However, if an incumbent judge fails to file a written declaration of candidacy as required by § 17-4-114 or § 17-4-115, or if the commission is reliably informed that a vacancy is impending for another reason, then the commission may meet, select such persons and certify the names of such nominees to the governor prior to actual receipt of written notice from the governor that a vacancy has occurred.

(f) The judicial nominating commission, in compiling its list of nominees for a supreme court position, shall assure that the requirements of art. VI, § 2, of the Tennessee Constitution are satisfied.

SECTION 10. Tennessee Code Annotated, Section 17-4-110, is amended by deleting the section in its entirety and substituting instead the following:

(a) All nominees of the judicial nominating commission must be attorneys licensed to practice in the state of Tennessee and fully qualified under the constitution and statutes of Tennessee to fill the office for which they are nominated.

(b) A candidate who has been defeated in any election held under this chapter is not eligible for renomination to the office for which the candidate was defeated until after one (1) regular August election has occurred.

SECTION 11. Tennessee Code Annotated, Section 17-4-111, is amended by deleting the section in its entirety and substituting instead the following: A member of the judicial nominating commission is not eligible to be nominated by the judicial nominating commission during the member's tenure and a two-year period after the conclusion of the member's tenure.

SECTION 12. Tennessee Code Annotated, Section 17-4-112, is amended by deleting the section in its entirety and substituting instead the following:

(a)

(1) When a vacancy occurs in the office of an appellate court after July 1, 2009, by death, resignation or otherwise, the governor shall fill the vacancy by appointing one (1) of the three (3) persons nominated by the judicial nominating commission, or the governor may require the commission to submit one (1) other panel of three (3) nominees. Upon receiving the additional panel of nominees, the governor shall fill the vacancy within sixty (60) days by appointing one (1) of the six (6) nominees certified by the commission.

(2) Upon receiving the commission's panel or panels of nominees but prior to making the appointment pursuant to subdivision (a)(1), the governor shall direct the Tennessee bureau of investigation or other appropriate agencies to perform appropriate financial and criminal background investigations and inquiries of the nominees, and the governor shall review and assess the results thereof.

(b) The term of a judge appointed under this section shall expire on August 31 after the next regular August election occurring more than thirty (30) days after the vacancy occurs.

SECTION 13. Tennessee Code Annotated, Section 17-4-114, is amended by deleting the section in its entirety and substituting instead the following:

(a)

(1) An incumbent appellate judge, who seeks election to fill the unexpired term of the office to which the incumbent judge was appointed, must qualify by filing with the state election commission a written declaration of candidacy to fill the unexpired term. The declaration must be filed not later than twelve o'clock (12:00) noon prevailing time on the first Thursday in February before the next regular August election occurring more than thirty (30) days after occurrence of

the vacancy that was filled by the incumbent appellate judge. After timely filing such declaration, any request by the candidate to withdraw must be filed with the state election commission not later than twelve o'clock (12:00) noon prevailing time on the seventh day after the deadline for filing such declaration of candidacy.

(2) An incumbent appellate judge, who seeks election to fill the unexpired term of the office to which the incumbent judge was appointed but who was appointed after the first Thursday in February before the next regular August election occurring more than thirty (30) days after occurrence of the vacancy that was filled by the incumbent judge, must qualify by filing with the state election commission a written declaration of candidacy to fill the unexpired term. The declaration must be filed not later than the first Thursday occurring at least one (1) full week after the appointment. After timely filing such declaration, any request by the candidate to withdraw must be filed with the state election commission not later than twelve o'clock (12:00) noon prevailing time on the seventh day after the deadline for filing such declaration of candidacy.

(3) Title 2, chapter 5, part 1, does not apply to an election in which an incumbent appellate judge seeks election to fill the unexpired term of the office to which the incumbent judge was appointed, unless a contested election is required by subsection (c).

(b)

(1) If the declaration of candidacy is timely filed, only the name of the candidate, without party designation, shall be submitted to the electorate in Tennessee in the regular August election. Each county election commission of the state shall cause the following to be placed on the ballot: Shall (Name of Candidate) be elected and retained in office as (Name of Office)?
Yes or No

(2) If the declaration of candidacy is not timely filed, then the judicial performance evaluation commission shall not include an evaluation or retention recommendation for the incumbent judge within the final report publicly disclosed pursuant to § 17-4-201(c), and the judge's name shall not be submitted to the electorate.

(c) If the judicial performance evaluation commission makes a recommendation "against retention" of an incumbent appellate judge but the judge nevertheless files or has filed the declaration of candidacy required by subsection (a), then the provisions of subdivision (b)(1) shall not be applicable and the unexpired term shall be filled by means of a contested election. If the judge's term of office is abbreviated because of death, resignation or removal after the filing of such declaration of candidacy but prior to the third Thursday in May preceding the regular August general election, then the vacancy shall be filled in accordance with § 17-4-112, and no such contested election shall be held. A political party may nominate a candidate and independent candidates may qualify under the general election law for the contested election which shall be the regular August election. After a judge is elected under this subsection (c), the provisions of this chapter concerning the evaluation and retention process shall again apply.

(d)

(1) If a majority of those voting on the question vote in favor of electing the candidate, the candidate is duly elected to the office for the remainder of the term of the predecessor and given a certificate of election.

(2) If a majority or one half (1/2) of those voting on the question vote against retaining the candidate in office, then a vacancy exists as of September 1 after the regular August election. The governor shall fill the vacancy from a group submitted by the judicial nominating commission as provided in § 17-4-112.

SECTION 14. Tennessee Code Annotated, Section 17-4-115, is amended by deleting the section in its entirety and substituting instead the following:

(a)

(1) An incumbent appellate judge, who seeks election or re-election for a full eight (8) year term, must qualify by filing with the state election commission a written declaration of candidacy. The declaration must be filed not later than twelve o'clock (12:00) noon prevailing time on the first Thursday in February immediately preceding the end of the term. After timely filing such declaration, any request by the candidate to withdraw must be filed with the state election commission not later than twelve o'clock (12:00) noon prevailing time on the seventh day after the deadline for filing such declaration of candidacy.

(2) An incumbent appellate judge, who seeks election for a full eight (8) year term but who was appointed to such office after the first Thursday in February before the next regular August election occurring more than thirty (30) days after occurrence of the vacancy that was filled by the incumbent appellate judge, must qualify by filing with the state election commission a written declaration of candidacy. The declaration must be filed not later than the first Thursday occurring at least one full week after the appointment. After timely filing such declaration, any request by the candidate to withdraw must be filed with the state election commission not later than twelve o'clock (12:00) noon prevailing time on the seventh day after the deadline for filing such declaration of candidacy.

(3) Title 2, chapter 5, part 1, does not apply to an election in which an incumbent appellate judge seeks election or reelection for a full eight (8) year term, unless a contested election is required by subsection (c).

(b)

(1) If the declaration of candidacy is timely filed, only the name of the candidate, without party designation, shall be submitted to the electorate in Tennessee in the regular August election. Each county election commission of the state shall cause the following to be placed on the ballot: Shall (Name of Candidate) be elected and retained in office as (Name of Office)

Yes or No

(2) If the declaration of candidacy is not timely filed, then the judicial performance evaluation commission shall not include an evaluation or retention recommendation for the incumbent judge within the final report publicly disclosed pursuant to § 17-4-201(c), and the judge's name shall not be submitted to the electorate.

(c) If the judicial performance evaluation commission makes a recommendation "against retention" of an incumbent appellate judge but the judge nevertheless files or has filed the declaration of candidacy required by subsection (a), then subdivision (b)(1) shall not be applicable and the eight (8) year term shall be filled by means of a contested election. If the judge's term of office is abbreviated because of death, resignation or removal after the filing of such declaration of candidacy but prior to the third Thursday in May preceding the regular August general election, then the vacancy shall be filled in accordance with § 17-4-112, and no such contested election shall be held. A political party may nominate a candidate and independent candidates may qualify under the general election law for the contested election which shall be the regular August election. After a judge is elected under this subsection (c), the provisions of this chapter concerning the evaluation and retention process shall again apply.

(d)

(1) If a majority of those voting on the question vote in favor of reelecting the candidate, the candidate is duly elected to the office for a full eight (8) year term and given a certificate of election.

(2) If a majority or one half (1/2) of those voting on the question vote against retaining the candidate in office, then a vacancy exists as of September 1 after the regular August election. The governor shall fill the vacancy from a group of three (3) nominees submitted by the judicial nominating commission as provided in § 17-4-112.

SECTION 15. Tennessee Code Annotated, Section 17-4-116, is amended by deleting the section in its entirety and substituting instead the following:

(a) If an incumbent appellate court judge, whether appointed or elected, fails to file a declaration of candidacy for election to an unexpired term or to a full eight (8) year term within the prescribed time, or if such judge withdraws as a candidate after receiving a recommendation "for retention" from the judicial evaluation commission and filing the required declaration of candidacy, then a vacancy is created in the office at the expiration of the incumbent's term effective September 1. In this event the judicial nominating commission shall furnish a list of nominees for the office to the governor as provided by § 17-4-109. From such list, the governor shall appoint a successor to fill the vacancy effective September 1. The appointment is subject to the action of the electorate in the next regular August election. The appointee shall file a declaration of candidacy and be voted on as provided in § 17-4-114 and 17-4-115.

(b) If the vacancy occurs more than thirty (30) days before the regular August election preceding the end of the term, the appointee is subject to election as provided in § 17-4-114 and 17-4-115.

(c)

(1) If a majority of those voting on the question vote in favor of electing the candidate, the candidate is duly elected to the office for the remainder of the unexpired term or a full eight (8) year term, as the case may be, beginning September 1, and the candidate shall be given a certificate of election.

(2) If a majority or one half (1/2) of those voting on the question vote against retaining the candidate in office, then the candidate may not take office on September 1, and a vacancy exists as of September 1 after the regular August election. The governor shall fill the vacancy from nominees submitted by the judicial selection commission as provided in § 17-4-112.

(d) If the vacancy occurs less than thirty-one (31) days before the regular August election, the appointee will not be voted on in such election and will take office on September 1. The term of office will be as provided in § 17-4-112(b).

SECTION 16. Tennessee Code Annotated, Section 17-4-117, is amended by deleting the section in its entirety and substituting instead the following: The administrative office of the courts shall keep and maintain all records of the judicial nominating commission as well as furnishing such commission with any other secretarial or clerical services or assistance it may require. It is further the duty of such administrative office of the courts to notify all commission members of the date, time and place of any commission meetings.

SECTION 17. Tennessee Code Annotated, Section 17-4-118, is amended by deleting the section in its entirety and substituting instead the following:

(a) After September 1, 1994, when a vacancy occurs in the office of a state trial court judge by death, resignation or otherwise, the governor shall fill the vacancy by appointing the one (1) of the three (3) persons nominated by the judicial nominating commission.

(b) The term of a judge appointed under this section shall expire on August 31 after the next regular August election recurring more than thirty (30) days after the vacancy occurs.

(c) The judicial nominating commission shall follow the process established in § 17-4-109 except that the commission shall hold a public meeting in the judicial district from which such vacancy is to be filled.

(d) If the judicial district is one (1) of the five (5) smallest judicial districts according to the 1990 federal census or any subsequent federal census, the judicial nominating commission may submit two (2) names to the governor.

(e) At the next regular August election recurring more than thirty (30) days after the vacancy occurs, the electorate shall elect a candidate to fill the remainder of the unexpired term or a complete term, as provided in the general election law in title 2.

SECTION 18. Tennessee Code Annotated, Section 17-4-201, is amended by deleting the section in its entirety and substituting instead the following:

(a)

(1) By rule, the supreme court shall establish a judicial performance evaluation program for appellate court judges. The purpose of the program shall be to assist the public in evaluating the performance of incumbent appellate court judges. The judicial performance evaluation commission, established pursuant to subsection (b), shall perform the required evaluations. The commission shall make a recommendation either "for retention" or "against retention" for each appellate court judge; provided, that the commission shall not evaluate or make any retention recommendation with regard to any appellate judge whose term of office is abbreviated because of death, resignation or removal. Furthermore, the commission shall not include within the final report, publicly disclosed pursuant to subsection (c), an evaluation or retention recommendation for any appellate judge whose term of office is abbreviated because of death, resignation or removal or who fails to timely file a declaration of candidacy as required by § 17-4-114(a) or § 17-4-115(a), unless the judge is a candidate for another office subject to evaluation under this section.

(2) If an incumbent appellate judge holds office for one (1) year or more preceding the deadline for filing the required declaration of candidacy for either an unexpired term or a full eight-year term, then evaluation procedures shall be based on the results of any evaluations performed throughout the judge's service on the appellate bench, evaluation surveys, personal information contained in an approved self-reporting form and such other comments and documents as the commission receives from any other reliable source. However, if an incumbent judge holds office for less than one (1) year preceding such deadline, then evaluation procedures shall be based on personal information contained in the self-reporting form, the judge's application to the judicial nominating commission

and such other comments and documents as the commission receives from any other reliable source.

(3) Information collected pursuant to subdivision (a)(2) shall be confidential and shall be publicly disclosed only in the manner permitted by subsection (c). Upon request, each member of the judicial performance evaluation commission shall enjoy complete access to any individual survey, form, application, comment and document submitted, conveyed or compiled for the purpose of judicial evaluation; however, each such member must protect the confidentiality of such information as well as the anonymity of survey respondents.

(4)

(A) At least thirty (30) days prior to the deadline for filing a declaration of candidacy, required by § 17-4-114(a)(1) or § 17-4-115(a)(1), the judicial performance evaluation commission shall provide an incumbent appellate judge with a draft of the commission's evaluation and shall provide the judge with a reasonable opportunity to comment or respond either personally or in writing.

(B) As soon as is reasonably practicable under the circumstances, but not less than three (3) days prior to the deadline for filing a declaration of candidacy required by § 17-4-114(a)(2) or § 17-4-115(a)(2), the judicial performance evaluation commission shall provide an incumbent appellate judge with a draft of the commission's evaluation and shall provide the judge with a reasonable opportunity to comment or respond either personally or in writing.

(b)

(1) The judicial performance evaluation commission shall be composed of nine (9) members.

(2) The judicial council shall appoint five (5) of the members, of whom three (3) shall be state court judges, one shall be a lawyer and one (1) shall be a nonlawyer. No more than two (2) of those appointed shall reside in the same Grand Division.

(3) The speaker of the senate shall appoint one (1) lawyer and one (1) nonlawyer member. No more than one (1) of those appointed shall reside in the same Grand Division.

(4) The speaker of the house of representatives shall appoint one (1) lawyer and one (1) nonlawyer member. No more than one (1) of those appointed shall reside in the same Grand Division.

(5) The supreme court's evaluation procedure may permit the judicial performance evaluation commission to perform an evaluation with less than the full membership in panels, but the full commission shall approve the evaluation.

(6) The appointing authorities for the judicial performance evaluation commission shall make appointments that approximate the population of the state with respect to race and gender. In making lawyer appointments to the commission, the speaker shall receive, but shall not be bound by, recommendations from any interested bar group including but not limited to the Tennessee Bar Association, the Tennessee Association for Justice, the Tennessee Defense Lawyers Association, the Tennessee Association for Criminal Defense Lawyers, the Tennessee District Attorney Generals Conference, the Tennessee Public Defenders Conference, the Tennessee Lawyers Association for Women, and the Tennessee Alliance for Black Lawyers.

(8) To stagger the terms of judicial performance evaluation commission members, beginning July 1, 2009, the three (3) nonlawyer members on the commission shall serve six (6) year transition terms; the three (3) state court judges on the commission shall serve four (4) year transition terms; and the three (3) lawyer members on the commission shall serve two (2) year transition terms.

At the conclusion of the transition terms, each regular term of a commission member shall be six (6) years. A vacancy on the commission shall be filled in the same manner as the original appointment for the remainder of the unexpired term.

(9) No commission member shall serve more than two (2) terms.

(10) A member of the judicial performance evaluation commission is not eligible to seek an appellate judgeship that becomes available as a result of, or related to, the commission's recommendation against retention for an incumbent appellate judge as set out in subsection (a).

(c)

(1) The judicial performance evaluation program shall require publication and disclosure of a final report. The final report shall not include any individual record or evaluation but may include, for each appellate judge, the individual final scores for the survey results. The final report shall be made available for public inspection on the first Thursday in March preceding the regular August election. On the first Sunday in July preceding the regular August election, the final report shall be published in a daily newspaper of general circulation in the Tri-Cities area, Knoxville, Chattanooga, Nashville, Jackson and Memphis. The final report for each appellate court judge may not exceed six hundred (600) words.

(2) As soon as is reasonably practicable under the circumstances, in order to assist the citizenry in electing the best qualified persons to the appellate courts, the commission shall cause supplemental final reports to be published as may be necessitated by the filing of declarations of candidacy, required by § 17-4-114(a)(2) or § 17-4-115(a)(2).

(d) The judicial performance evaluation program, including the public report and the ballot information, shall apply to each appellate court judge who seeks to serve a complete term after July 1, 2009.

SECTION 19. Tennessee Code Annotated, Title 17, Chapter 4, is amended by adding a new section thereto:

The judicial nominating commission and the judicial performance evaluation commission created by this act are the successors to the judicial selection commission and the judicial evaluation commission respectively. All rules, procedures, records, reports, functions and duties carried out by the prior commissions are hereby transferred to the successor entities.

SECTION 20. Tennessee Code Annotated, Section 4-29-235(a), is amended by adding the following new appropriately designated subdivision thereto:

(1) Judicial nominating commission, created by § 17-4-102;

(2) Judicial performance evaluation commission, created by § 17-4-201;

SECTION 21. Tennessee Code Annotated, Section 4-29-229(a) is amended by deleting subsections (46) and (47) in their entirety.

SECTION 22. This act shall take effect July 1, 2009, the public welfare requiring it.